

OVERVIEW

This policy outlines the process and requirements for the completion of clearances for child caring institution staff members subject to the Family First Preservation Services Act (FFPSA).

DEFINITIONS

The following definitions are cited directly from the Child Care Organizations Act, 1973 PA 116:

Child Caring Institution (CCI)

A child-care facility that is organized for the purpose of receiving minor children for care, maintenance, and supervision, usually on a 24-hour bases, in buildings maintained by the child caring institution for that purpose and operates throughout the year. An educational program may be provided, but the educational program shall not be the primary purpose of the facility. Child caring institution includes a maternity home for the care of unmarried mothers who are minors and an agency group home that is described as a small child caring institution, owned, leased, or rented by a licensed agency providing care for more than four but less than thirteen minor children. Child caring institution also includes institutions for developmentally disabled or emotionally disturbed minor children. Child caring institution does not include a hospital, nursing home, or home for the aged licensed under article 17 of the public health code.

Child Caring Institution Staff Member

An individual who is 18 years or older, and whom any of the following apply:

- Is employed by a child caring institution for compensation, including adults who do not work directly with children.
- Is a contract employee or self-employed individual working with a child caring institution.
- Is an intern or other person who provides specific services under these rules.

Criminal Background Check

A Michigan Internet Criminal History Access Tool (ICHAT) that provides Michigan criminal history results.

CCI Staff Spreadsheet

A document maintained between the Division of Child Welfare Licensing and the CCI agency for tracking clearances for CCI staff members. This term is identified in DCWL internal policy.

CLEARANCE PROCEDURES

Upon receipt of the 1326-CCI staff form, the Division of Child Welfare Licensing (DCWL) staff will complete the following:

1. Review the 1326-CCI staff form to ensure all required information has been entered.
2. Complete a criminal background check and document results.
3. Complete a Michigan child abuse/neglect registry check and document results.
4. Request a criminal background check clearance from states where the individual has resided in the last five years and document results.
5. Request a child abuse and neglect registry check from other states where the individual has resided in the last five years and document results.
6. DCWL staff will document the completion of all above required clearances on the 1326-CCI form.
7. All completed documentation will be returned to the identified CCI requestor.
8. All clearance results will be documented by DCWL on the agency's CCI staff spreadsheet.
9. Copies of all results will be maintained by DCWL, in accordance with title IV-E requirements.

LEGAL AUTHORITY

Federal

Family First Prevention Services Act (FFPSA)

In February of 2018, the Bipartisan Budget Act of 2018, Public Law 115-123 which included the Family First Prevention Services Act

(FFPSA). The FFPSA amended several provisions of title IV-E of the Social Security Act (SSA), 42 USC 671 et seq. One amendment added the following language to 42 USC 671: *[P]rocedures for any child-care institution...to conduct criminal record checks, including fingerprint-based checks of national crime information databases, unless an alternative criminal history check has been approved by the federal government...and checks (regarding Michigan's Central Registry), on any adult working in a child-care institution[.] [42 USC 671(a)(2)(D).]*

"(D) provides procedures for any child-care institution, including a group home, residential treatment center, shelter, or other congregate care setting, to conduct criminal records checks, including fingerprint-based checks of national crime information databases and checks described in subparagraph of this paragraph, on any adult working in a child-care institution, including a group home, residential treatment center, shelter, or other congregate care setting, and why the checks specified in this subparagraph are not appropriate for the State;"

Child Care Organizations Act, 1973 PA 116

The Child Care Organizations Act, commonly referred to as Act 116 was enacted to provide for the protection of children through licensing and regulations of child care organizations, to establish standards, prescribe power and duties to certain departments, and to provide for penalties in the event such standards are not followed.

Child Care Organizations Act, 1973 PA 116, MCL 722.112 Rules: ad hoc committee; restrictions; review.

Sec. 2 (1) The department of health and human services and licensing and regulatory affairs are responsible for the development of rules for the care and protection of children in organizations covered by this act and for the promulgation of these rules according to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.32.

Child Care Organizations Act, 1973 PA 116, MCL 722.115

722.115 License required; applicability; application; forms; investigations; on-site visit; issuance or renewal of license; investigation and certification of foster family home or group home; placement of children in foster family home, family group home, unlicensed residence, adult foster care family home, or adult foster

care small group home; certification; criminal history check; "good moral character" defined.

Licensing Rules for Child Caring Institutions, Pub.452

R400.4112 Criminal history check, subject to requirements; staff qualifications.

1. (1) Child caring institutions subject to 42 USC 671 shall not permit a child caring institution staff member to begin working unless all of the following has been completed using the forms, and in the manner, prescribed by the department:
 - (a) A criminal record check as referenced in R 400.4113(f), including a fingerprint-based check of national crime information databases, unless an alternative criminal history check has been approved by the federal government.
 - (b) A check of Michigan's child abuse and neglect central registry or Canadian provincial agency as referenced in R 400.4113(i).
 - (c) A check of other states' child abuse registry where the person has lived in within the preceding five years.
2. A person who has unsupervised contact with children shall not have been convicted of either of the following:
 - (a) Child abuse or neglect.
 - (b) A felony involving harm or threatened harm to an individual within the 10 years immediately preceding the date of hire.
3. A person who has unsupervised contact with children shall not be a person who is listed on the central registry as a perpetrator of child abuse or child neglect.
4. A person with ongoing duties shall have both of the following:
 - (a) Ability to perform duties of the position assigned.
 - (b) Experience to perform the duties of the position assigned.
5. An unsupervised volunteer who performs work, including adults who do not work directly with children, is subject to the requirements of subrule (1)(a) and (b) of this rule.

History: 1983 AACCS; 2015 MR 9, Eff. June 8, 2015, Am. Eff. December 5, 2019.